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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,724	08/16/2005	Laurentius Petrus Van Loon	0470-050128	1898

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EXAMINER

DINH, TIEN QUANG

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/521,724	Applicant(s) VAN LOON, LAURENTIUS PETRUS	
	Examiner Tien Dinh	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17,20,21 and 23-36 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 17,20,21,23, 32, 33, 24-31 and 34-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/22/09</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 20-21, 24-31, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greiss 4055317 in view of Londeree et al 2854307 and/or Barrett 3848844 and Beck et al 2001/0016145.

Greiss discloses a galley on an aircraft with service trolleys 42 but is silent on the wall having modules that are slidable on the wall, slots on the wall, runners on the back of the modules, and lifting means. However, Londeree et al 2854307 discloses a module C, wall W, guides 26, 28 running in the vertical direction, mushroom shaped runners 46, 70 on the rear and lifting means 40, 42 are well known. The examiner believes that Londeree et al teaches the undercut slots that have the t-shaped form with the slot forming the leg and the area behind the slot forming the top part of the T. Barrett also teaches undercuts that have T-shapes to allow elements to slide in the slots. Beck et al teaches that a widened area 5 on a slot 4, 6 and widened runners are well known.

It would have been obvious to one skilled in the art at the time the invention was made to have used a module, wall, guides running in the vertical direction, mushroom shaped runners on the rear that can be hooked to the slots and undercut to the slots that are widened (this is where

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the runner can be inserted in the horizontal direction), and lifting means in Greiss' system as taught by Londeree et al and/or Barrett to accommodate the passengers. It would have been obvious to have used undercuts with T shapes in Greiss' system as taught by Londeree et al and/or Barrett to allow the modules to slide up and down the slots.

Plus, an artisan would have used a widen section in at least one undercut slot to allow undercut runners in the horizontal direction to hook into the respective undercut slot.

Re claims 24 and 25, the examiner takes official notice that locking means to fix the modular at a specific height is well known and one skilled in the art would have used such locking means to allow crew members of different height to access it. Applicant has not challenged this and is not admitted prior art.

Re claim 26, the examiner takes official notice that connecting means for data exchange/power are well know and one skilled in the art would have used such devices to provide data/power to the crew. Applicant has not challenged this and is not admitted prior art.

Re claim 27, please note that the use of multiple vertical sections. This way there can be multiple modules being used.

Re claim 20, since the widened part of the slots are inherently above the floor of the galley when the prior arts are combined, modules (such as a big one) that are placed on floor would be in front of the undercut slot. This module would inherently completely overlap the widened section. Plus, since Greiss et al teaches that modules that are on the floor of the galley as shown, one skilled in the art would have used a widened section nearer to the floor to have

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the predictable result of lowering and raising the modules in these galleys so as to reduce lifting by the crew. Plus, this would be easier to install the modules.

Re claims 35 and 36, Beck teaches widened slots with widened runners 15 are well known. See figures 3, 4, 6, and 7 for details.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greiss 4055317 as modified by Londeree et al 2854307 and/or Barrett and Beck et al 2001/0016145, as applied to claim 17 above, and further in view of Nervig et al 6454208.

Greiss 4055317 as modified by Londeree et al 2854307 and/or Barrett and Beck et al 2001/0016145 discloses all claimed parts except for the spindle with arms that moves by internal screw thread. Nervig et al discloses this deficiency in figures 3 and 4.

It would have been obvious to one skilled in the art at the time the invention was made to have used spindles with internal screw threads in Greiss' system as modified by Londeree et al as taught by Nervig et al as a substitution of parts.

Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rader 5063859 in view of Londeree et al 2854307 and Beck et al 2001/0016145.

Rader discloses a train but is silent on the claimed modular galley. However, Londeree et al 2854307 discloses a module C, wall W, guides 26, 28 running in the vertical direction, mushroom shaped runners 46, 70 on the rear that can be hooked to the slots and undercut to the slots that are widened (this is where the runner can be inserted in the horizontal direction), and

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lifting means 40, 42 are well known. Beck et al teaches that a widened area 5 on a slot 4, 6 is well known.

It would have been obvious to one skilled in the art at the time the invention was made to have used a module, wall, guides running in the vertical direction, mushroom shaped runners on the rear that can be hooked to the slots and undercut to the slots that are widened (this is where the runner can be inserted in the horizontal direction), and lifting means in Rader' system as taught by Londeree et al and Beck et al to accommodate the passengers.

Re claim 33, the examiner takes official notice that data bus is well known and one skilled in the art would have used data bus to computerize or automate the modular galley. Applicant has not argued this, hence this is admitted prior art.

Response to Arguments

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The applicant has argued that since brackets 46, 70 of Londeree "remain caught in the slots", that the resulting combination would not teach or suggest an undercut slot having a widened section such that an undercut runner can be inserted therein in the horizontal direction as presently claimed. Applicant has to realize that the examiner is not modifying Londeree. In addition, Barrett was used to teach that undercuts that have T-shapes to allow elements to slide in the slots. Beck et al was used to teach

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that a widened area 5 on a slot 4, 6 and widened runners are well known. The runners are inserted into the widened slots to allow two parts to be attached together and to allow the runners to be removed through the widened slots.

In response to applicant's argument that Griess, Beck, and Barrett are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, since Barrett clearly teaches that having means to support and move a module up and down to accommodate the person accessing the module has the predictable result of having easier access to the module even if the person has varying heights. This allows easier loading and unloading of materials inside the module. Movable modules having the ability to move up and down apply to stationary or moving objects such as trains/plains. A person would still need better way to have access to the module.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Nervig clearly teaches the spindle with arms that moves by internal screw thread are well known. This is merely a substitution of parts to move desired objects.

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Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing *KSR v. Teleflex*, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly, Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing *KSR*, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

As for the rejection with the combination of Raderin view of Londeree and/or Becks, the examiner maintains the rejection. The combination discloses all claimed parts in claims 32 and 33. Applicant has not provided any valid arguments about the combination.

Conclusion

This is a final rejection of applicant's earlier Application No. 10521724. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tien Dinh whose telephone number is 571-272-6899. The examiner can normally be reached on 12-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tien Dinh/

Primary Examiner, Art Unit 3644